

PUBLIC NOTICE



**US Army Corps
of Engineers
Kansas City District**

**Permit No. 2006-1014
Issue Date: August 13, 2007
Expiration Date: September 12, 2007**

30-Day Notice

JOINT PUBLIC NOTICE: This public notice is issued jointly with the Kansas Department of Health and Environment. The Department of Health and Environment will use the comments to this notice in deciding whether to grant Section 401 water quality certification. Commenters are requested to furnish a copy of their comments to the Kansas Department of Health and Environment, Bureau of Water - - Watershed Management Section, 1000 SW Jackson Street, Suite 420, Topeka, Kansas 66612-1367.

APPLICANT: BNSF Railway Company
4515 Kansas Avenue
Kansas City, Kansas 66106

PROJECT LOCATION (As shown on the attached drawings): The proposed project is located in an unnamed relatively permanent tributary to Big Bull Creek, in Sections 26, 27, 33, and 34, Township 14 South, Range 22 East, and in Sections 5, 6, and 7, Township 15 South, Range 22 East, near the City of Gardner, in Johnson County, Kansas.
(Lat: 38.79257657 Long: -94.955055, GARDNER QUAD)

AUTHORITY: Section 404 of the Clean Water Act (33 USC 1344).

ACTIVITY: The proposed activity is shown on the attached drawings. Color copies of the attached drawings are available to view at the following webpage:

http://www.nwk.usace.army.mil/regulatory/public_notices.htm

The applicant is proposing to construct the Gardner Intermodal Facility (Gardner IMF) including associated track improvements near Gardner, Kansas on an approximate 490-acre site.

The proposed Gardner IMF would be composed of lead tracks off the mainline tracks to access the facility, unloading or stripping tracks, rail-mounted electric cranes, rubber-tired gantry cranes, container storage, trailer parking and chassis storage, and support facilities. Support facilities would include the following: administration and operations center, hostler employee building, gantry crane fueling and maintenance center, hostler maintenance and fueling center, mechanics shop and parts storage, air compressor buildings and air compressors, spill containment areas, oil/water separator, gate building, and truck portals. The proposed Gardner

IMF would also include transload capabilities where rail lines are located adjacent to truck lanes so that trailers or containers can be transferred directly from trucks to trains and from trains to trucks.

The proposed project also includes the relocation of approximately 5.5 miles of eastbound mainline track that would parallel the existing westbound track at 15-foot track center spacing. A portion of the existing eastbound mainline track would be transformed into the lead tracks for the Gardner IMF.

The proposed project would result in the relocation of approximately 9,509 linear feet of a relatively permanent unnamed tributary to Big Bull Creek (perennial stream). General grading would also impact and fill approximately 6,606 linear feet of non-relatively permanent unnamed tributaries to Big Bull Creek (ephemeral and intermittent streams). The general grading associated with the Gardner IMF would also impact and fill approximately 4.61 acres of wetlands and approximately 16.65 acres of open water (agricultural ponds). The proposed 5.5 mile track relocation would result in minor impacts associated with track crossings of 13 linear waters of the United States. The track relocation would also impact approximately 0.282 acres of wetlands.

The proposed project would result in closure of 183rd Street between Waverly Road and US 56 Highway, closure of 191st Street between Four Corners Road and US 56 Highway, and closure of Four Corners Road between US 56 and 191st Street. The proposed project would also include certain off-site utility and roadway improvements such as upgrading Waverly Road between U.S. 56 Highway and 191st Street; adding a grade-separation over the existing southern mainline tracks (future east lead tracks); and upgrading 191st Street between Four Corners Road and Gardner Road.

The applicant is proposing to mitigate impacts to waters of the U.S. onsite in a conservation corridor that would consist of the rerouted relatively permanent stream within an approximate 300 foot riparian buffer consisting of native plantings.

WETLANDS: The proposed project would impact approximately 3.12 acres of emergent wetlands, 1.18 acres of forested wetlands, and 0.31 acres of scrub shrub wetlands.

ADDITIONAL INFORMATION: Additional information about this application may be obtained by contacting Mr. Joshua Marx, Regulatory Project Manager, at the U. S. Army Corps of Engineers, Kansas City Regulatory Office, 700 Federal Building, 601 East 12th Street, Kansas City, Missouri, 64106-2896, by telephone at 816-389-3658 or via email at Joshua.a.marx@usace.army.mil. All comments to this public notice should be directed to the above address.

STATE AUTHORIZATION: The applicant will apply for a permit from the Kansas Department of Agriculture pursuant to Kansas Statutes Annotated 82a-301 to 305.

CULTURAL RESOURCES: Kansas City District will comply with the National Historic Preservation Act of 1966 and 36 CFR 800. We have checked the National Register of Historic Places and the Federal Register and no property listed in the Register or proposed for listing is

located in the permit area. A reconnaissance survey of the permit area is ongoing. We will evaluate input by the State Historic Preservation Officer and the public in response to this public notice.

ENDANGERED SPECIES: In compliance with the Endangered Species Act, a preliminary determination has been made that the described work will not affect species designated as threatened or endangered or adversely affect critical habitat. In order to complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

FLOODPLAINS: This activity is being reviewed in accordance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative. By this public notice, comments are requested from individuals and agencies that believe the described work will adversely impact the floodplain.

WATER QUALITY CERTIFICATION: Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of dredged or fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. This public notice serves as an application to the state in which the discharge site is located for certification of the discharge. The discharge must be certified before a Department of the Army permit can be issued. Certification, if issued, expresses the state's opinion that the discharge will not violate applicable water quality standards.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA): This activity is being reviewed in accordance with NEPA. Comments received will be used in preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to NEPA. Environmental documentation for compliance with NEPA will be available for the public to review prior to making a permit determination.

PUBLIC INTEREST REVIEW: The decision to issue a permit will be based on an evaluation of the probable impact including the cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency under authority of Section 404(b) of the Clean Water Act (33 USC 1344). The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above.

Comments are used in preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to NEPA. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

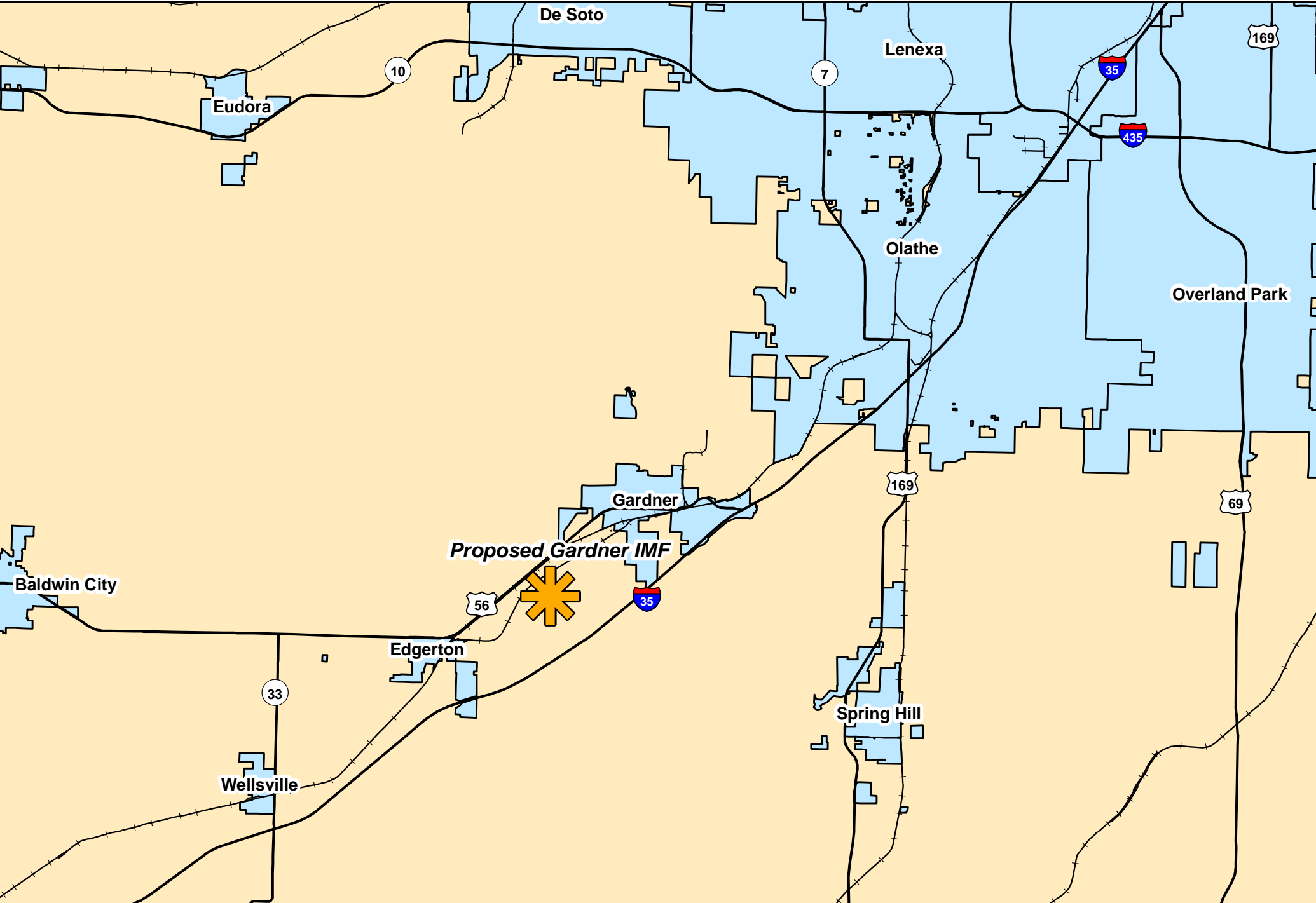
COMMENTS: This notice is provided to outline details of the above-described activity so this District may consider all pertinent comments prior to determining if issuance of a permit would be in the public interest. Any interested party is invited to submit to this office written facts or objections relative to the activity on or before the public notice expiration date. Comments both favorable and unfavorable will be accepted and made a part of the record and will receive full consideration in determining whether it would be in the public interest to issue the Department of the Army permit. Copies of all comments, including names and addresses of commenters, may be provided to the applicant. Comments should be mailed to the address shown on page 2 of this public notice.

PUBLIC HEARING: The Kansas City District will hold an open house public scoping meeting on Wednesday September 26, 2007 at Mildale Farm in the equestrian-style barn (35250 West 199th Street, Edgerton, Kansas 66021) from 4 – 9 p.m. The purpose of the meeting is to gather information to assist in the review of the permit application. The public meeting is intended to be informal and held in lieu of a public hearing. Attendees of the meeting will be afforded the opportunity to learn about the proposed project and to give either written or verbal comments for us to consider. The public is welcome to attend the meeting at anytime between 4 – 9 p.m.

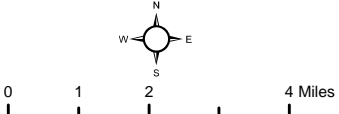
While this meeting is intended to be held in lieu of a public hearing, any person may request, in writing, that a public hearing be held to consider this application. Such requests shall state, with particularity, the reasons for holding a public hearing.

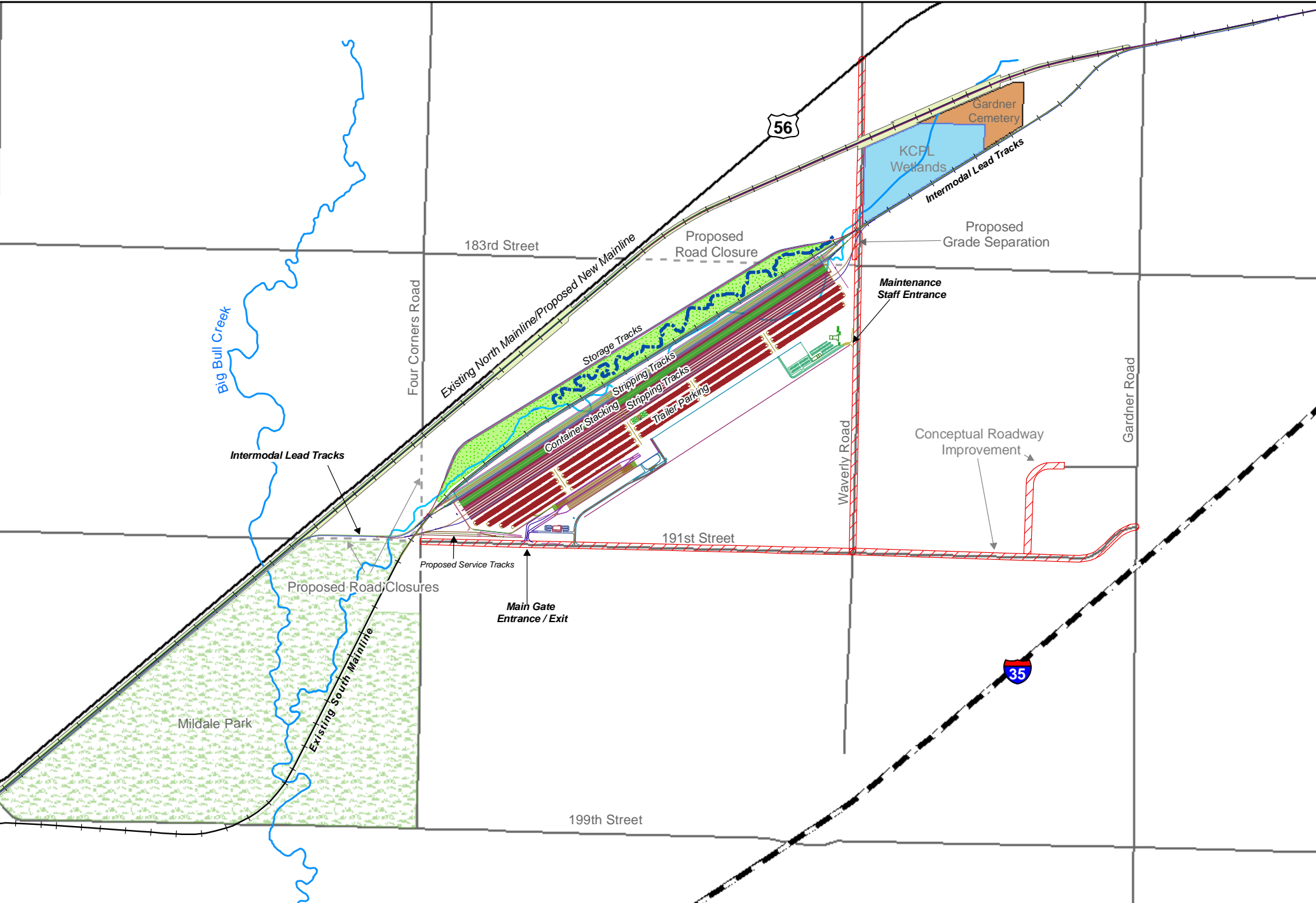
NOTE: This public notice is posted on the Kansas City District Regulatory web page and can be viewed at the following address:

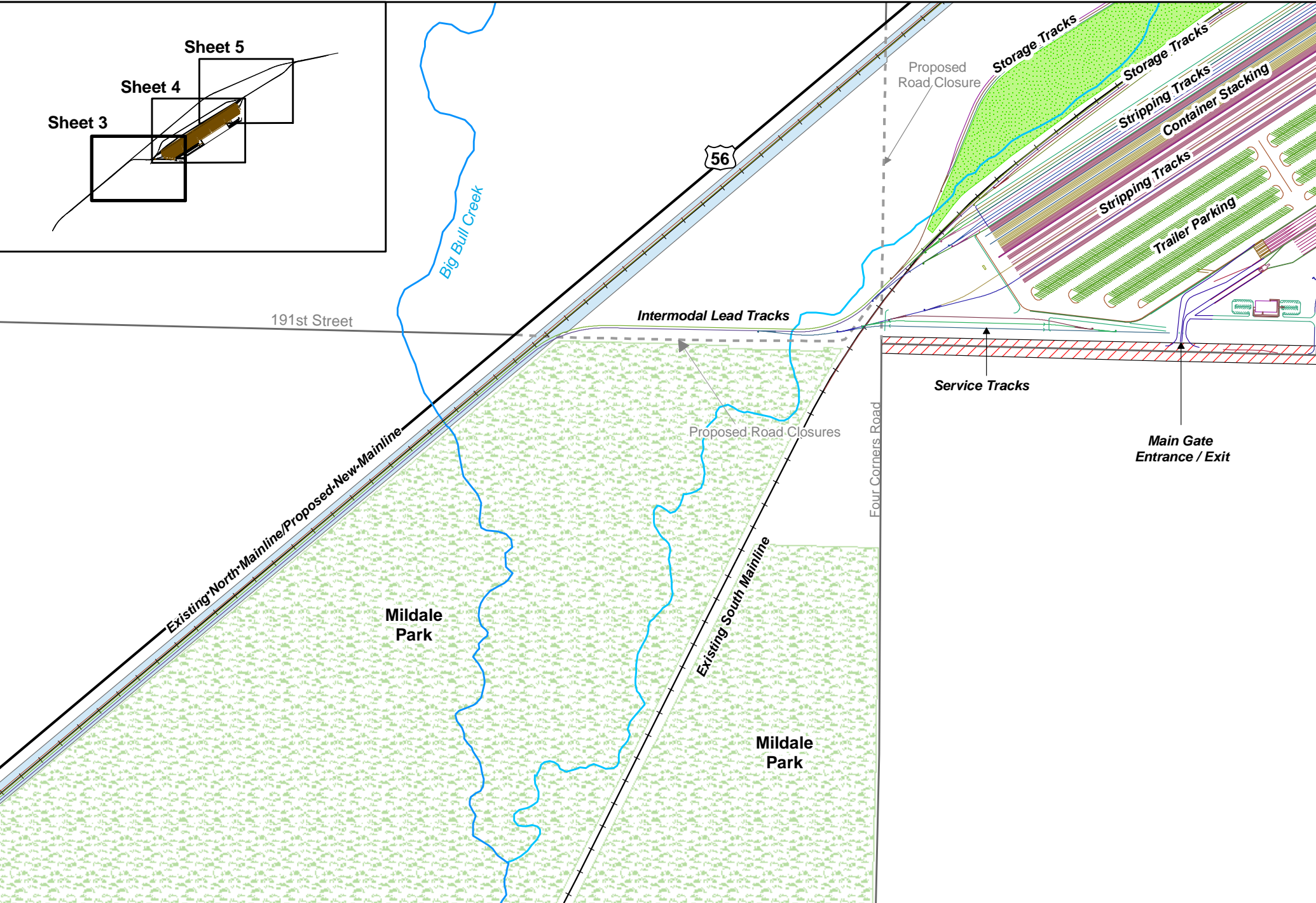
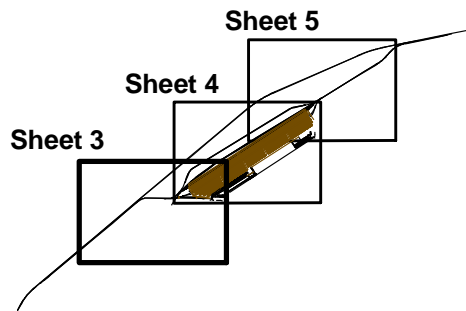
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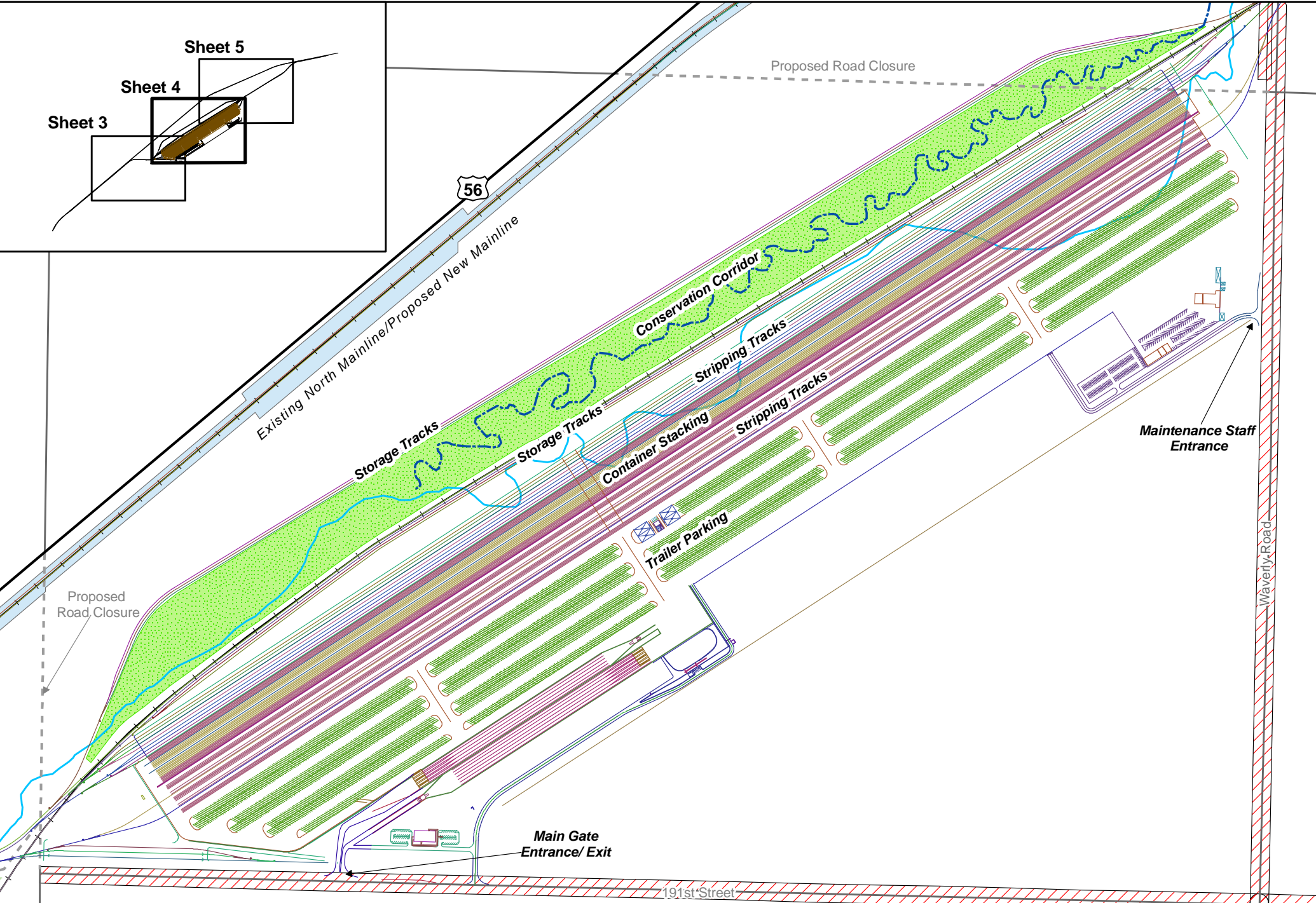
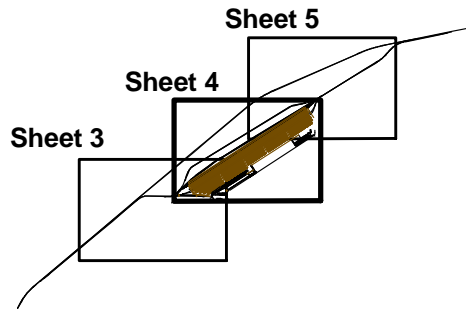
USACE Project No. 200601014
Sheet 1
General Location
Proposed Gardner IMF
July 2007



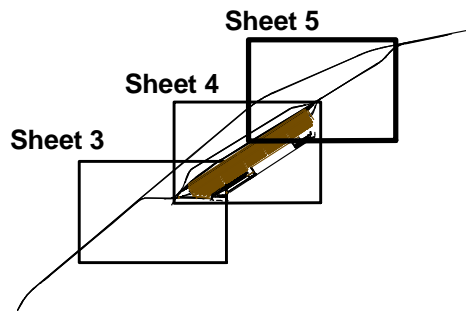




Legend Proposed Stream Realignment Existing Railroad South Mainline Relocation Right of Way Off-site Roadway Improvements		Existing Stream Mildale Park Conservation Corridor		USACE Project No. 20061014 Sheet 3 Detailed View Proposed Gardner IMF July 2007	 0 195 390 780 Feet
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Legend --- Proposed Stream Realignment South Mainline Relocation Right of Way --- Existing Stream Mildale Park --- Existing Railroad Off-site Roadway Improvements Conservation Corridor			USACE Project No. 20061014 Sheet 4 Detailed View Proposed Gardner IMF July 2007	 0 195 390 780 Feet
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Existing North Mainline/Proposed New Mainline

Gardner Cemetery

KCPL Wetlands

Intermodal Lead Tracks

Proposed
Grade Separation

Proposed Road Closure

183rd Street

Storage Tracks

Stripping Tracks

Container Stacking

Trailer Parking

Maintenance
Staff Entrance

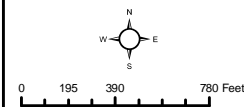
Legend

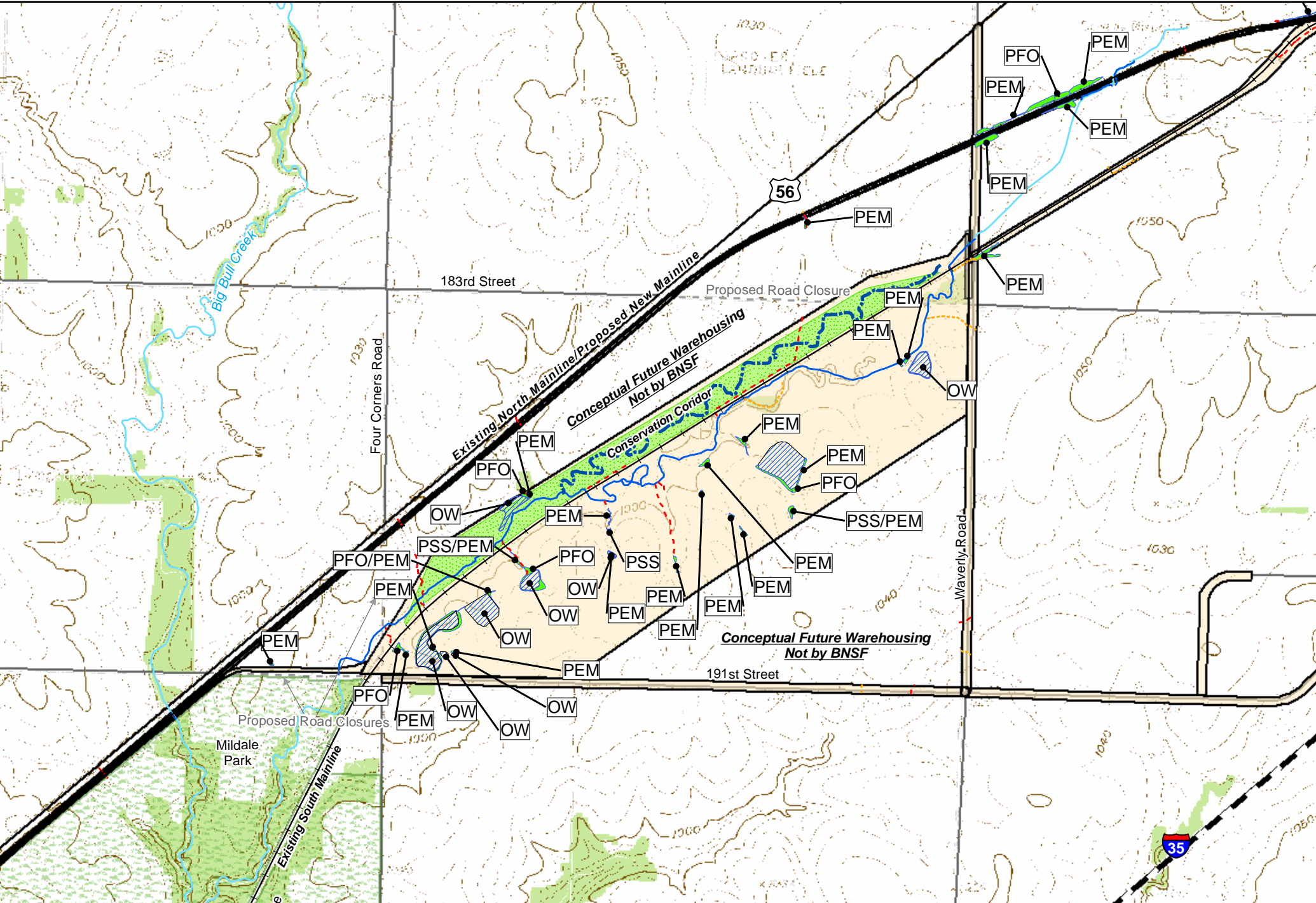
- Proposed Stream Realignment
- Existing Railroad
- South Mainline Relocation Right of Way
- Off-site Roadway Improvements
- Existing Stream
- Conservation Corridor
- Mildale Park

USACE Project No. 20061014

Sheet 5
Detailed View
Proposed Gardner IMF

July 2007





Legend

Existing Railroad

Proposed Stream Realignment

USGS Streams

Ephemeral Stream

Intermittent Stream

Perennial Stream

Open Water

Wetland

Mildale Park

Conservation Corridor

Grading Limits

PEM = Emergent Wetland

PFO = Forested Wetland

PSS = Scrub-shrub Wetland

PSS/PEM = Scrub-shrub/Emergent Wetland

PFO/PEM = Forested/Emergent Wetland

OW = Open Water

USACE Project No. 200601014

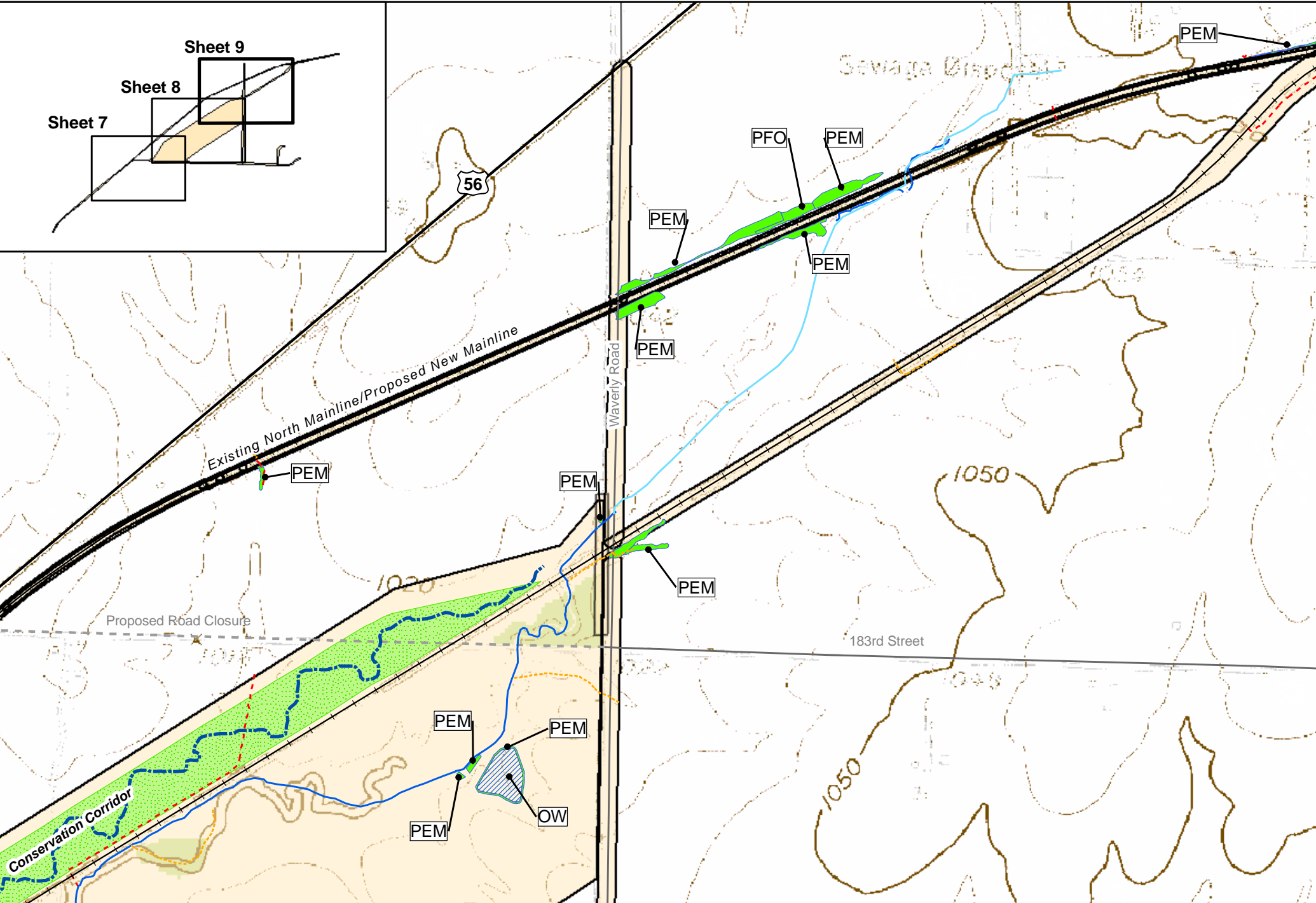
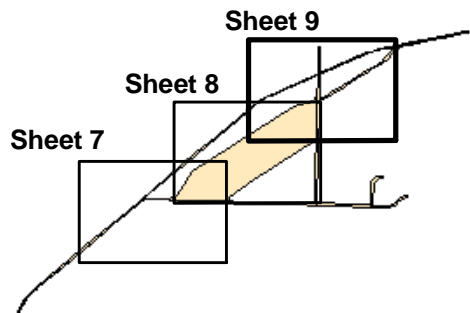
Sheet 6

Aquatic Resources

Proposed Gardner IMF

July 2007

0 650 1,300 2,600 Feet

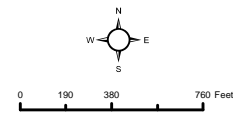


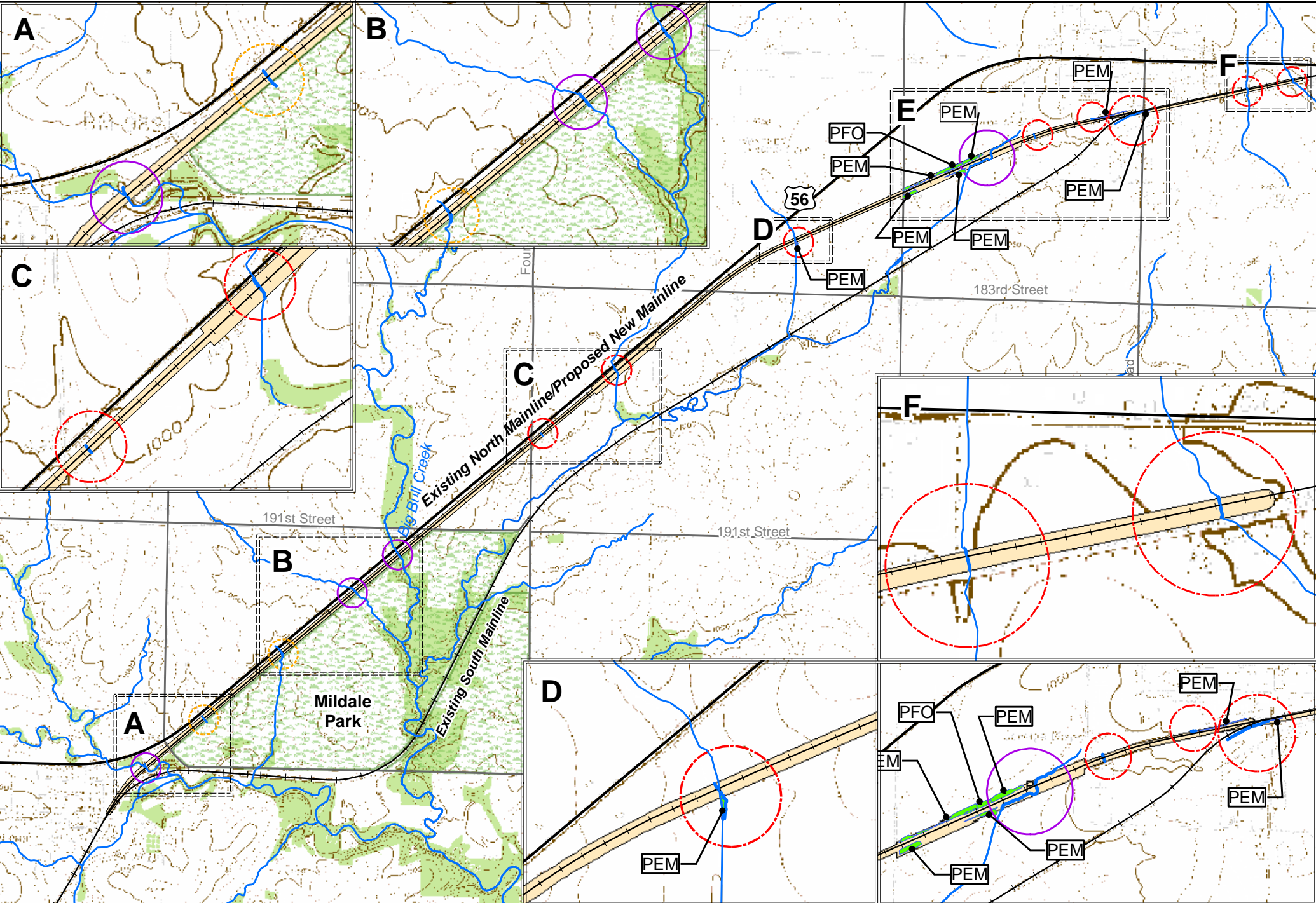
Legend

- Existing Railroad
- Proposed Stream Realignment
- USGS Streams
- Ephemeral Stream
- Intermittent Stream
- Perennial Stream
- Open Water
- Wetland
- Grading Limits
- Mildale Park
- Conservation Corridor

PEM = Emergent Wetland
PFO = Forested Wetland
PSS = Scrub-shrub Wetland
PSS/PEM = Scrub-shrub/Emergent Wetland
PFO/PEM = Forested/Emergent Wetland
OW = Open Water

USACE Project No. 200601014
Sheet 9
Aquatic Resources Detailed View
Proposed Gardner IMF
July 2007





Legend — Existing Railroad — USGS Streams — Ephemeral Stream Crossing — Intermittent Stream Crossing — Perennial Stream Crossing — Wetlands — South Mainline Relocation Right of Way — Mildale Park		PEM = Emergent Wetland PFO = Forested Wetland	USACE Project No. 200601014 Sheet 10 Mainline Relocation Aquatic Resources Proposed Gardner IMF July 2007	
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